

ENTERED

February 03, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOHN BURKE, *et al.*,

Plaintiffs,

VS.

OCWEN LOAN SERVICING, LLC, *et al.*,

Defendants.

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CIVIL ACTION NO. 4:21-CV-02591

## ORDER

Before the Court are two Motions: Plaintiff Joanna Burke’s Motion to Vacate (Doc. #52; Doc. #53)<sup>1</sup>; Ms. Burke’s Motion to Alter Judgment (Doc. #54), Defendants’ Response (Doc. #58), and Ms. Burke’s Reply (Doc. #59). Plaintiff seeks to vacate the Court’s August 29, 2022 Order (Doc. #50), which disposed of the case by granting Defendants’ Motions for Judgment on the Pleadings (Doc. #18; Doc. #19). Doc. #53; Doc. #54. Ms. Burke takes issue with the Court dismissing her case on August 29, 2022, the same day that she requested a continuance of her scheduling conference due to an emergency medical condition involving her husband, Plaintiff John Burke. Doc. #53 at 1. She also mentions, in part, her own escalating medical needs and the subsequent death of her husband as reasons that the Court should vacate its Order. *Id.* at 7–8.

The Court ruled on Defendant's Motions for Judgment on the Pleadings after they were fully briefed and ripe for consideration—Ms. Burke responded to Defendants' 12(c) motions (Doc. #18; Doc. #19) on November 16, 2021 (Doc. #32) and Defendants replied on November 23, 2021 (Doc. #34; Doc. #35). Moreover, the Court was not required to grant Ms. Burke's request for a

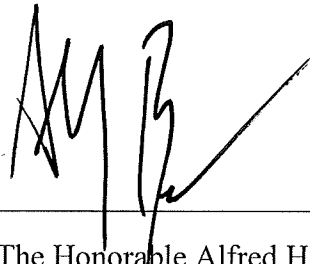
<sup>1</sup> For the sake of efficiency, the Court will address these identical filings as one motion.

continuance of her scheduling conference before ruling on Defendants' Motions because the Court has the power to control its docket. *See Reliance Ins. Co. v. La. Land & Exploration Co.*, 110 F.3d 253, 258 (5th Cir. 1997) ("District judges have the power to control their dockets . . ."). While the Court is sympathetic to Ms. Burke's medical needs and the grief accompanying the loss of her husband, the reasons articulated by the Court in its August 29, 2022 Order, which analyzed the evidence and legal arguments properly before the Court, remain valid despite Ms. Burke's additional briefing. *See* Doc. #50. Accordingly, the Motion to Vacate and the Motion to Alter Judgment are DENIED.

It is so ORDERED.

FEB 03 2023

Date

A handwritten signature in black ink, appearing to be 'A. H. Bennett', written over a horizontal line.

The Honorable Alfred H. Bennett  
United States District Judge